

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO**

In re: JEFFERY W. POTTER,

No. 7-05-14071 MS

Debtor.

**ORDER DENYING MARTIN S. FRIEDLANDER'S MOTION TO COMPEL  
ABANDONMENT OF ASSETS (DOCKET #453)**

THIS MATTER is before the Court on the Motion of Martin S. Friedlander in his Pro Se Capacity as Secured Creditor and Third Party Beneficiary of the Legal Defense and Maintenance Trust of California ("California Trust") to: 1) Request the Court to Declare that None of the Assets Standing in the Name of Said Trust are Part of the Potter Chapter 7 Estate<sup>1</sup> and/or 2) to Compel the Trustee to Abandon the Property of Potter and the Limited Liability Company Assets Transferred to the Estate by the California Trust or as the Case May Be, of the California Trust's Assets Standing in the Name of the California Trust (Bankruptcy Code § § 541 and 554(b) ("Motion to Compel Abandonment")). At the final hearing on the Motion to Compel Abandonment, the Chapter 7 Trustee agreed to abandon the estate's interest, if any, in and to what the parties reference as the "Gallisteo proceeds."

In accordance with the Court's ruling on the Motion to Compel Abandonment,


IT IS HEREBY ORDERED that the Motion to Compel Abandonment is DENIED.

ORDERED FURTHER, that, with regard to the alleged legal malpractice claims against

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<sup>1</sup>The Chapter 7 Trustee has filed an adversary proceeding which seeks to avoid certain transfers of assets to the California Trust and recover such assets into the bankruptcy estate. *See* Adversary Proceeding No. 07-1062 M. The adversary proceeding remains pending. A request by motion filed in the bankruptcy proceeding to determine that the assets in the California Trust are not property of the bankruptcy estate is an inappropriate attempt to obtain a declaratory judgment in contravention of the pending adversary proceeding.

Sam Bregman, and O'Reilly & Doherty, the Chapter 7 Trustee must, within ninety days of the date of entry of this order, either commence a lawsuit or file a motion with the Court to approve compromise of such claim(s), or submit an order abandoning the claim(s) to the extent such claim(s) are the claim(s) of the Debtor, Jeffery W. Potter. To the extent the claim(s) belong to a related entity other than the Debtor, individually, the Chapter 7 Trustee shall not be compelled to abandon those claim(s).

  
MARK B. McFEELEY  
United States Bankruptcy Judge

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